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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1945

No. 448

AMERICAN FEDERATION OF LABOR; METAL TRADES DEPARTMENT, A. F. OF L.; FLORIDA STATE FEDERATION OF LABOR, ET AL.,

Appellants,

vs.

J. TOM WATSON, AS ATTORNEY GENERAL OF THE STATE OF FLORIDA, ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF FLORIDA

STATEMENT OPPOSING JURISDICTION AND MOTION TO DISMISS OR AFFIRM

J. TOM WATSON,
Attorney General of Florida;
SUMTER LEITNER,
HOWARD S. BAILEY,
GEORGE M. POWELL,
Assistant Attorneys General of Florida,
Counsel for Appellee, J. Tom Watson,
as Attorney General of the State of Florida.

IN THE

SUPREME COURT OF THE UNITED STATES

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No. 448

AMERICAN FEDERATION OF LABOR; METAL TRADES DEPARTMENT, A. F. OF L.; FLORIDA STATE FEDERATION OF LABOR, ET AL.,

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APPELLEE'S STATEMENT OPPOSING JURISDICTION AND MOTION TO DISMISS OR AFFIRM

The Appellee, J. Tom Watson, as Attorney General of the State of Florida, believing that the matters set forth below will demonstrate the lack of substance in the questions raised by this appeal, files this his statement in opposition to appellants' statement as to jurisdiction.

Appellee includes herein his motion to dismiss the appeal, or, in the alternative, to affirm the judgment of the District Court of the United States in and for the Southern District of Florida, on the ground that questions raised on behalf of appellants are so unsubstantial as not to need further argument.

Appellee also shows that the judgment of the District Court must in any event be affirmed for the fact that the bill of complaint in this cause shows upon its face an absolute want of irreparable injury; this fact remains unchallenged and is amply supported by the quality of the allegations of the bill of complaint. *Watson* v. *Buck*, 313 U. S. 387.

Appellee also shows to the Court that it is obvious from the reading of the bill of complaint in this cause that the allegations contained therein are without factual basis, that the complainants, most of whom never heard of this suit, and have no actual interest herein, have been used in an unwarranted expansion of its importance, to put forward a mass of conclusions designed to convince a three-judge court and this court that an actual justificable controversy is present when in fact no injury or damage, irreparable or otherwise, has occurred and the suit is palpably without casual basis.

The matters here relied upon by appellee are more particularly stated below.

The appellants, in their statement in support of jurisdiction and particularly subsection D thereof, being "Substantiality of Questions Involved," base their argument on the fact that the substantial nature of the question involved in this case is an economic one; that is: that because of the fact that the so-called "closed shop" has been in existence for many years; that becaues a substantial part of the workers of American have been compelled to work under the closed shop agreement; that because the results of a closed shop have been good; and that because the unions can thus more effectively bargain with employers, jurisdiction of the Supreme Court of the United States should lie to review the said appeal.

Courts are not concerned with the wisdom or lack of wisdom of a state statute or of a provision in a state constitution, but what this Court is concerned with here is whether or not a section of the Florida Constitution, reading as follows:

> "Section 12. No person shall be subject to be twice put in jeopardy for the same offense, nor compelled in any criminal case to be a witness against himself, nor be depsived of life, liberty, or property without due process of law; nor shall private property be taken without just compensation. *The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization; provided, that this clause shall not be construed to deny or abridge the right of employees by and through a labor organization or labor union to bargain collectively with their employer.*" (Emphasis supplied.)

violates the Federal Constitution or any Federal law.

Nowhere do the appellants show that it violates the Federal Constitution in any manner, shape or form, and neither can they show that it violates any Federal law. Instead of violating any Federal law or the Constitution, it guarantees to the workers the rights of collective bargaining—all that the Federal Law guarantees. It is true that it does prohibit the making and enforcing of the "closed shop" or as appellants call them "union security agreements." The people of Florida have decided that they do not want the "closed shop" This is a matter for them to decide and not the Court.

It is a familiar and well-established principle of law that only those adversely affected by a claimed unconstitutionality may sue. In this case, when one searches the record for some allegations of fact showing injury to any party

plaintiff, he searches in vain; for only conclusions based upon economic theories will be his reward.

WHEREFORE, appellee respectfully moves the Court to dismiss this appeal, or, in the alternative, to affirm the decree of the District Court heretofore entered herein.

Respectfully submitted,

J. TOM WATSON,
as Attorney General of Florida;
SUMTER LEITNER,
as Assistant Attorney General;
HOWARD S. BAILEY,
as Assistant Attorney General.
GEORGE M. POWELL,
Assistant Attorneys General of Florida,
Solicitors and of Counsel for J. Tom Watson,
as Attorney General of the State of Florida.